

**IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF NEW MEXICO**

ARTHUR FIRSTENBERG,

**Petitioner,**

CASE NO. 11-CV-8

vs.

CITY OF SANTA FE, a municipality;  
AT&T MOBILITY SERVICES, LLC, a  
Delaware Limited Liability Company,

## Defendants.

**PETITION FOR REMOVAL OF CAUSE TO FEDERAL COURT**

**TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

PLEASE TAKE NOTICE that AT&T MOBILITY SERVICES, LLC ("AT&T Mobile") hereby removes to this Court the above-captioned state court action for the reasons described below.

1. On December 15, 2010, Petitioner ARTHUR FIRSTENBERG commenced the above-captioned action in the New Mexico District Court, First Judicial District, Santa Fe County, which action was captioned *Firstenberg v. City of Santa Fe, et al.*, Case No. D-101-CV-04296.

2. This Notice of Removal is filed on behalf of AT&T Mobile.

3. The state court action constitutes a removable "civil action" under 28 U.S.C. § 1441(b). Petitioners' claims raise federal questions for which this Court has original subject matter jurisdiction. Specifically, Petitioners' claims raise federal questions under The Telecommunications Act of 1996, 47 U.S.C. § 151 et seq. and the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.

1       4. Alternatively, Petitioner's claims implicate significant federal issues such  
2 that the action being removed arises under federal law. See *Smith v. Kansas City*  
3 *Title & Trust Co.*, 255 U.S. 180, 199 (1921); *Grable & Sons Metal Products, Inc. v.*  
4 *Darue Engineering & Manufacturing*, 545 U.S. 308, 316 (2005). There is a significant  
5 federal interest in the adjudication of this claim in a federal rather than state forum,  
6 and the exercise of federal jurisdiction here will not "disturb any congressionally  
7 approved balance of federal and state judicial responsibilities." *Grable*, 545 U.S. at  
314.

8       5. Pursuant to 28 U.S.C. § 1446(a), a copy of all process served upon  
9 Defendant is attached hereto as **Exhibit A**.

10      6. AT&T Mobile certifies that it has served a copy of this Notice on the  
11 Plaintiff, and a copy of the Notice has also been filed with the District Court Clerk,  
12 District Court of the State of New Mexico, Santa Fe County, as required by 28  
13 U.S.C. § 1446(d). A copy of the Notice filed with the State Court Clerk is attached  
hereto as **Exhibit B**.

14      7. AT&T Mobile certifies, further, that it has discussed this matter with co-  
15 defendant, the City of Santa Fe, and the City of Santa Fe consents to removal.

16      WHEREFORE, AT&T requests the removal of the above-entitled case from  
17 the District Court of the State of New Mexico, Santa Fe County, to this Court.

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DATED this 5th day of January, 2011.  
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**BASHAM & BASHAM, P.C.**  
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/s/  
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Attorneys for AT&T Mobility, LLC

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Petition was mailed  
to:

Arthur Firstenberg  
P.O. Box 6216  
Santa Fe, NM 87502

Geno Zamora  
City Attorney  
City of Santa Fe  
200 Lincoln Ave.  
Santa Fe, NM 87501

/s/  
MARK A. BASHAM